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Paper No. 14

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In re Application of: Seung-Cheol Hong et al.)
Application No. 09/942,961)
Filed: August 31, 2001)
For: REDUCING POWER)
CONSUMPTION IN MONITOR BY)
SWITCHING OFF HEATER POWER)
IN POWER-OFF MODE)

**DECISION ON PETITION
UNDER 37 CFR § 1.181 TO
INVOKE SUPERVISORY
AUTHORITY**

This is a decision on the petition under 37 CFR § 1.181, filed May 12, 2003, requesting withdrawal of the finality of the Office action (Paper No. 12) mailed on April 2, 2003.

The petition is **DENIED**.

RECENT RELEVANT PROSECUTION BACKGROUND

- November 19, 2002 - Rejection mailed [Paper No. 10]. Claims 1-10 and 49-54 are indicated as allowable over the prior art of record.
- ¶¶2-7 reject claims 11-33, 35-36, 38, 42-43, 46, 55-56, and 60 over Applicant's Admitted Prior Art in view of Heineman('366).
- Claims 34, 37, 39-41, 44, 45, 47, 48, and 57-59 objected to as depending from rejected claims but indicated as allowable over the prior art of record.
- February 19, 2003 - Applicant files request for reconsideration of the art rejection on the basis that applicant's disclosure is not prior art. [Paper No. 11]
- April 2, 2003 - Final rejection maintaining previous position mailed. [Paper No. 12]
- May 12, 2003 - Petition to invoke supervisory authority. [Paper No. 13]

RELIEF REQUESTED

Petitioner filed the instant petition on May 12, 2003 contending that the final rejection issued by the Examiner in Paper No.11 (a) improperly rejected the claims by treating portions of Applicant's disclosure as Admitted Prior Art and (b) that the Examiner "appears to have dismissed, without serious consideration, the Applicants' remarks" regarding the aforementioned legal issue.

The petition under 37 CFR §§ 1.181 requests the following relief:

- A. Reconsideration of the finality of Paper No. 12.
- B. Withdrawal of the finality of the last Office action
- C. Issuance of a new Office action which is not a final Office action; and
- D. Other relief as justice may require.

OPINION

Whether the Examiner has established a prima facie case of obviousness and whether the rejections over art are correct are appealable issues not subject to petition. 37 CFR §§ 1.181(a) states:

§ 1.181 Petition to the Commissioner.

(a) Petition may be taken to the Commissioner: (1) From any action or requirement of any examiner in the ex parte prosecution of an application *which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court*; (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and (3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644. (*Emphasis added*)

Thus, the correctness of the art rejections is not subject to review by Petition. Therefore, all remedies requested hinge solely on the determination of the propriety of the finality of Paper No. 12.

A careful reading of the final rejection indicates the Examiner has fully developed a position on the issues in the action. On page 4 of the Office action of mail date April 2, 2003, the Examiner explicitly addresses Applicant's arguments as to the use of the disclosure as Admitted Prior Art. The examiner has clearly set forth his rejection of claims 11-33, 35-36, 38, 42-43, 46, 55-56, and 60 including reasons for motivation on pages 2-3 of the Final office action (Paper No. 12).

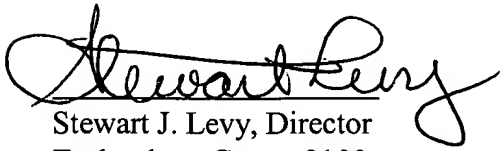
The examiner's holding of Finality with respect to the rejections of record in Paper No. 12, is correct and consistent with Office policy and practice. Accordingly, the Petition is **DENIED**.

Inquiries with respect to this decision may be directed to Special Programs Examiner Pinchus M. Laufer at (703) 306-4160.

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If the petitioner desires further review of the Director's Decision, applicant should consider filing a Petition for Review of the Director's Decision under 37 CFR §1.181(a)(3).

A handwritten signature in cursive script, reading "Stewart J. Levy". The signature is written in black ink and is positioned above the printed name.

Stewart J. Levy, Director
Technology Center 2100
Computer Architecture, Software, and Information Security